

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Assignee: ConAgra Foods, Inc.

Inventors: M. Wolt *et al.*

App. No: not yet assigned

Filed: Herewith

Title: HIGH SATIETY INDEX BREAD

Group Art Unit: Not Yet Assigned

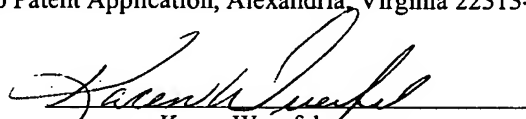
Examiner: Not yet Assigned

**CERTIFICATE OF MAILING BY "EXPRESS MAIL"
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Date of Deposit: March 9, 2004

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to Commissioner for Patents, Mail Stop Patent Application, Alexandria, Virginia 22313-1450.


Karen Wuerfel

INFORMATION DISCLOSURE STATEMENT

MAIL STOP PATENT APPLICATION

Commissioner for Patents

PO Box 1450

Alexandria, Virginia 22323-1450

Sir:

In accordance with 37 C.F.R. § 1.56, the references listed on the attached forms PTO/SB/08A/B are being brought to the attention of the Examiner for consideration in connection with the examination of the above-identified patent application. The Examiner is requested to make this document of record.

I. Timing of the Information Disclosure Statement:

This Information Disclosure Statement is filed:

- ☒ With the new patent application submitted herewith (37 C.F.R. § 1.97(a)).
- ☐ Within three months after the filing date of the application or within three months after the date of entry of the national stage of a PCT application as set forth in 37 C.F.R. § 1.491.
- ☐ Before the mailing date of a first Office action on the merits. In the event, however, that an Office Action has crossed in the mail with this Information Disclosure Statement, the

II. Copies of the Cited Items:

- ☐ A Copy of the item listed on the attached form PTO/SB/08B is enclosed.
- ☒ Copies of only the following items listed on the attached Forms PTO/SB/08A/B are enclosed:
PCT Publication No. WO 94/28743
"Barley as a Food Grain";
"Baking and Snack";
"Influence of Hulless, Waxy Starch and Short-awn Genes on the Composition of Barleys";
"Improvement in Insulin and Glucose Responses Related to Grains";
"The Effects of equal-energy portions of different breads on blood glucose levels, feelings of fullness and subsequent food intake."
- ☐ Copies of those items which are marked with an asterisk (**) in the attached Form PTO/SB/08A were cited in a foreign examination report in a related case. A copy of the search report and the cited references not already of record in this application are attached hereto.

III. Concise Explanation of Relevance:

- ☒ A concise explanation of relevance of the item listed on form PTO/SB/08A/B is not given.
- ☐ A concise explanation of relevance of [some of] the items listed on Form PTO/SB/08A is in the form of an English language copy of a Search Report from a foreign patent office, issued in a counterpart application, which refers to the relevant portions of the references (copy attached).

IV. Related Applications:

- ☒ Applicants bring to the Office's attention the following related, co-pending application(s): Serial No.: 10/001,464, Filed October 31, 2001.

Commissioner is hereby authorized to charge Deposit Account No. 50-2518 for any fees required pursuant to 37 C.F.R. §§ 1.17(p) or 1.17(i)(1).

This Information Disclosure Statement is filed:

- ☐ After the first Office Action and more than three months after the application's filing date; or PCT national stage date of entry filing but, as far as is known to the undersigned, prior to the mailing date of either a final rejection or a notice of allowance, whichever occurs first, and the Commissioner is hereby authorized to charge Deposit Account No.[] for the fee (\$180) set forth in 37 C.F.R. § 1.17(p) and any additional required fees.

This Information Disclosure Statement is filed:

- ☐ After the mailing date of either a final rejection or a notice of allowance, whichever occurred first, and is accompanied by the fee (\$180.00) set forth in 37 C.F.R. § 1.17(i)(1) and a certification as specified in 37 C.F.R. § 1.97(e), as checked below. This document is to be considered as a petition requesting consideration of the Information Disclosure Statement.

The undersigned certifies that:

- ☐ Each item of information contained in the Information Disclosure Statement was first cited in any communication mailed from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this information disclosure statement.
- ☐ No item of information contained in this information disclosure statement was cited in a communication mailed from a foreign patent office in a counterpart foreign application or, to the knowledge of the undersigned after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

V. Conclusion:

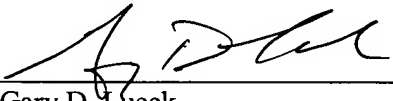
Citation of the above documents shall not be construed as:

1. an admission that the documents are necessarily prior art with respect to the instant invention;
2. a representation that a search has been made, other than as described above; or
3. an admission that the information cited herein is, or is considered to be, material to patentability as defined in § 1.56(b).

It is respectfully requested that the Examiner indicate consideration of the cited references by returning a copy of the attached form PTO/SB/08A/B with initials or other appropriate marks. The Commissioner is hereby authorized to charge Deposit Account No. 50-2518, billing reference number: 3000254 / 703189-4001 for any additional fees required in connection with the filing of this Information Disclosure Statement.

Respectfully submitted,
BINGHAM MCCUTCHEN LLP

Dated: March 9, 2004

By: 
Gary D. Lueck
Registration No. 50,791

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Substitute for form 1449A/PTO				Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)				Application Number	Not Yet Assigned
				Filing Date	Herewith
				First Named Inventor	M. Wolt
				Art Unit	Not Yet Assigned
				Examiner Name	Not Yet Assigned
				Attorney Docket Number	3000254 / 703189-4001
Sheet		of			

U.S. PATENT DOCUMENTS					
Examiner Initials *	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number - Kind Code ² (if known)			
	1	4,282,319	08-04-1981	Conrad	
	2	4,377,602	03-22-1983	Conrad	
	3	4,379,174	04-05-1983	Radlove	
	4	4,568,557	02-04-1986	Becker, et al.	
	5	4,711,786	12-08-1987	Schmidt	
	6	4,741,907	05-03-1988	Furuhashi	
	7	4,777,045	10-11-1988	Vanderveer, et al.	
	8	4,961,937	10-09-1990	Rudel	
	9	4,968,694	11-06-1990	Madsen, et al.	
	10	5,151,283	09-29-1992	Foehse, et al.	
	11	5,223,298	06-29-1993	Wulschleger, et al.	
	12	5,227,248	07-13-1993	Wulschleger, et al.	
	13	5,246,723	09-21-1993	Kameyama, et al.	
	14	5,281,432	01-25-1994	Zallie, et al.	
	15	5,364,652	11-15-1994	Ohkuma, et al.	
	16	5,403,610	04-04-1995	Murphy, et al.	
	17	5,464,644	11-07-1995	Wulschleger, et al.	
	18	5,480,669	01-02-1996	Zallie, et al.	
	19	5,695,803	12-09-1997	Sharp, et al.	
	20	5,698,256	12-16-1997	Stilling	
	21	5,776,887	07-07-1998	Wibert, et al.	
	22	5,792,506	08-11-1998	Buchanan, et al.	
	23	5,795,606	08-18-1998	Lapr�, et al.	
	24	5,807,727	09-15-1998	Uchida, et al.	
	25	5,843,927	12-01-1998	DeLuca, et al.	
	26	5,972,399	10-26-1999	Lapr�, et al.	
	27	6,210,702	04-03-2001	Samman	
	28	6,210,722	04-03-2001	Wulschleger, et al.	
	29	6,248,375	06-19-2001	Gilles, et al.	
	30	6,503,555	01-07-2003	Katta, et al.	

[illegible]

OTHER – NON PATENT LITERATURE DOCUMENTS			
Examine r Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher city and/or country where published	T ²
	32	NEWMAN, R.K. and NEWMAN, C.W., Barley as a Food Grain, <i>Cereal Food World</i> , September 1991, pp. 800-805, Vol. 36, No. 6, American Association of Cereal Chemists, Inc., United States of America.	
	33	C. McWARD, "Baking and Snack", Integrating value: specialty flours and grains, 1995. Abstract.	
	34	XUE, Q., et al., Influence of Hulless, Waxy Starch and Short-awn Genes on the Composition of Barleys, <i>Journal of Cereal Science</i> , 1997, pp. 251-257, No. 26, Academic Press Limited, United States of America.	
	35	HALLFRISCH, L. and BEHALL, K.M., Improvement in Insulin and Glucose Responses Related to Grains, <i>Cereal Food World</i> , February 2000, pp. 66-69, Vol.45, No. 2, American Association of Cereal Chemists, Inc., United States of America.	
	36	HOLT, S.H.A., et al., The Effects of equal-energy portions of different breads on blood glucose levels, feelings of fullness and subsequent food intake, <i>Journal of The American Dietetic Association</i> , July 2001, pp. 767-773, Vol. 101, No. 7.	

Examiner Signature		Date Considered	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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